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ATTORNEY FOR PLAINTIFF

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH CONTRERAS, an individual, Case No.: 3:08-CV-02849 SBA

Plaintiff,

v.

**REPLY TO DEFENDANTS' 12(b)(6)  
 MOTION**

HSBC CONSUMER LENDING USA, dba  
 BENEFICIAL; ASSET ACCEPTANCE LLC;  
 DOES 1 THROUGH 10,

**Date:** September 9, 2008  
**Time:** 1:00 P.M.  
**Place:** Courtroom 3, 3<sup>rd</sup> Floor,  
 Oakland Court

Defendants. /

Plaintiff has brought suit against Defendants alleging violations of Federal and State law regulating debt collectors. Since filing her lawsuit, Plaintiff filed Chapter 7 bankruptcy and in her petition exempted her claim against Defendants.

Defendants have filed a 12(b)(6) motion seeking to dismiss the lawsuit on the ground that Plaintiff lacks standing and that the suit can only be prosecuted by the Chapter 7 trustee.

The Bankruptcy Court on August 18, 2008 approved the claimed exemption setting aside the property from the bankruptcy estate (BLR 4003-1(a)). Attached is a copy of the Court's Order, Exhibit A. The trustee no longer has an interest in the property and the property belongs to Plaintiff who now seeks to vindicate her claim before this Honorable Court.

WHEREFORE, Plaintiff prays that Defendants' motion be denied and a Scheduling Order issued from the Court.

Dated: August 19, 2008

/s  
 Irving L. Berg

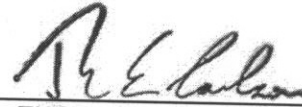
## **EXHIBIT A**

August 19, 2008  
GLORIA L. FRANKLIN, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA



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7 Attorney for Debtor

Signed and Filed: August 18, 2008



THOMAS E. CARLSON  
U.S. Bankruptcy Judge

10 UNITED STATES BANKRUPTCY COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 In re:

Case No.: 08-30954 TEC 7

Chapter 7

14 ELIZABETH CONTRERAS,

**ORDER APPROVING CLAIMED  
EXEMPTIONS**

17 Debtor.  
18 \_\_\_\_\_/

20 The Court has considered the Debtor's Motion to approve claimed exemptions.  
21 Electronic service has been made on the U.S. Trustee and Panel Trustee.  
22 GOOD CAUSE APPEARING, the Motion is granted and the exemptions claimed  
23 by Debtor are approved as claimed.

26 \*\* END OF ORDER \*\*